



Reprinted
February 21, 2003

SENATE BILL No. 320

DIGEST OF SB 320 (Updated February 20, 2003 2:51 PM - DI 106)

Citations Affected: IC 35-38; IC 35-43; noncode.

Synopsis: Identity theft. Specifies that a person's address, telephone number, place of employment, employer identification number, and mother's maiden name constitute identifying information for purposes of the identity theft statute. Provides that a person commits identity theft if the person acts with intent to assume another person's identity or profess to be another person. Provides that the trial court, upon motion, may issue an order describing the victims of a crime of deception, and permits this order to be used in correcting a person's credit history. Makes technical corrections.

Effective: July 1, 2003.

Clark, Rogers, Broden, Zakas

January 15, 2003, read first time and referred to Committee on Criminal, Civil and Public Policy.

February 13, 2003, amended, reported favorably — Do Pass.

February 20, 2003, read second time, amended, ordered engrossed.

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SB 320—LS 7236/DI 106+



First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

SENATE BILL No. 320

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 35-43-5-1, AS AMENDED BY P.L.180-2001,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2003]: Sec. 1. (a) The definitions set forth in this section apply
4 throughout this chapter.

5 (b) "Claim statement" means an insurance policy, a document, or a
6 statement made in support of or in opposition to a claim for payment
7 or other benefit under an insurance policy, or other evidence of
8 expense, injury, or loss. The term includes statements made orally, in
9 writing, or as a computer generated document, including the following:

- 10 (1) An account.
- 11 (2) A bill for services.
- 12 (3) A bill of lading.
- 13 (4) A claim.
- 14 (5) A diagnosis.
- 15 (6) An estimate of property damages.
- 16 (7) A hospital record.
- 17 (8) An invoice.

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- 1 (9) A notice.
- 2 (10) A proof of loss.
- 3 (11) A receipt for payment.
- 4 (12) A physician's records.
- 5 (13) A prescription.
- 6 (14) A statement.
- 7 (15) A test result.
- 8 (16) X-rays.
- 9 (c) "Coin machine" means a coin box, vending machine, or other
10 mechanical or electronic device or receptacle designed:
11 (1) to receive a coin, bill, or token made for that purpose; and
12 (2) in return for the insertion or deposit of a coin, bill, or token
13 automatically:
14 (A) to offer, provide, or assist in providing; or
15 (B) to permit the acquisition of;
16 some property.
- 17 (d) "Credit card" means an instrument or device (whether known as
18 a credit card or charge plate, or by any other name) issued by an issuer
19 for use by or on behalf of the credit card holder in obtaining property.
- 20 (e) "Credit card holder" means the person to whom or for whose
21 benefit the credit card is issued by an issuer.
- 22 (f) "Customer" means a person who receives or has contracted for
23 a utility service.
- 24 (g) "Entrusted" means held in a fiduciary capacity or placed in
25 charge of a person engaged in the business of transporting, storing,
26 lending on, or otherwise holding property of others.
- 27 (h) "Identifying information" means information that identifies an
28 individual, including an individual's:
29 (1) name, **address**, date of birth, **place of employment, employer**
30 **identification number, mother's maiden name**, Social Security
31 number, or any identification number issued by a governmental
32 entity;
33 (2) unique biometric data, including the individual's fingerprint,
34 voice print, or retina or iris image;
35 (3) unique electronic identification number, address, or routing
36 code;
37 (4) telecommunication identifying information; or
38 (5) telecommunication access device, including a card, **a plate, a**
39 **code, a telephone number, an** account number, **a personal**
40 **identification number, an** electronic serial number, **a mobile**
41 **identification number, or other another** telecommunications
42 service or device or means of account access that may be used to:

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- 1 (A) obtain money, goods, services, or any other thing of value;
 2 or
 3 (B) initiate a transfer of funds.
- 4 (i) "Insurance policy" includes the following:
 5 (1) An insurance policy.
 6 (2) A contract with a health maintenance organization (as defined
 7 in IC 27-13-1-19).
 8 (3) An administrator contract entered into under IC 27-1-25.
 9 (j) "Insurer" has the meaning set forth in IC 27-1-2-3(x).
 10 (k) "Manufacturer" means a person who manufactures a recording.
 11 The term does not include a person who manufactures a medium upon
 12 which sounds or visual images can be recorded or stored.
 13 (l) "Make" means to draw, prepare, complete, counterfeit, copy or
 14 otherwise reproduce, or alter any written instrument in whole or in part.
 15 (m) "Metering device" means a mechanism or system used by a
 16 utility to measure or record the quantity of services received by a
 17 customer.
 18 (n) "Public relief or assistance" means any payment made, service
 19 rendered, hospitalization provided, or other benefit extended to a
 20 person by a governmental entity from public funds and includes poor
 21 relief, food stamps, direct relief, unemployment compensation, and any
 22 other form of support or aid.
 23 (o) "Recording" means a tangible medium upon which sounds or
 24 visual images are recorded or stored. The term includes the following:
 25 (1) An original:
 26 (A) phonograph record;
 27 (B) compact disc;
 28 (C) wire;
 29 (D) tape;
 30 (E) audio cassette;
 31 (F) video cassette; or
 32 (G) film.
 33 (2) Any other medium on which sounds or visual images are or
 34 can be recorded or otherwise stored.
 35 (3) A copy or reproduction of an item in subdivision (1) or (2)
 36 that duplicates an original recording in whole or in part.
 37 (p) "Slug" means an article or object that is capable of being
 38 deposited in a coin machine as an improper substitute for a genuine
 39 coin, bill, or token.
 40 (q) "Utility" means a person who owns or operates, for public use,
 41 any plant, equipment, property, franchise, or license for the production,
 42 storage, transmission, sale, or delivery of electricity, water, steam,

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telecommunications, information, or gas.

(r) "Written instrument" means a paper, a document, or other instrument containing written matter and includes money, coins, tokens, stamps, seals, credit cards, badges, trademarks, medals, retail sales receipts, labels or markings (including a universal product code (UPC) or another product identification code), or other objects or symbols of value, right, privilege, or identification.

SECTION 2. IC 35-43-5-3.5, AS ADDED BY P.L.180-2001, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3.5. (a) Except as provided in subsection (b), a person who knowingly or intentionally obtains, possesses, transfers, or uses the identifying information of another person:

(1) without the other person's consent; and

(2) with intent to:

(A) harm or defraud another person;

(B) assume another person's identity; or

(C) profess to be another person;

commits identity deception, a Class D felony.

(b) The conduct prohibited in subsection (a) does not apply to:

(1) a person less than twenty-one (21) years of age who uses the identifying information of another person to acquire an alcoholic beverage (as defined in IC 7.1-1-3-5);

(2) a minor (as defined in IC 35-49-1-4) who uses the identifying information of another person to acquire:

(A) a cigarette or tobacco product (as defined in IC 6-7-2-5);

(B) a periodical, a videotape, or other communication medium that contains or depicts nudity (as defined in IC 35-49-1-5);

(C) admittance to a performance (live or film) that prohibits the attendance of the minor based on age; or

(D) an item that is prohibited by law for use or consumption by a minor; or

(3) any person who uses the identifying information for a lawful purpose.

(c) It is not a defense in a prosecution under subsection (a) that no person was harmed or defrauded.

SECTION 3. IC 35-38-1-2.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2.5. (a) As used in this section, "crime of deception" means any offense in which a person assumes the identity of another person, professes to be another person, uses the identifying information of another person, or falsely suggests that the person is acting with the authority of another person. The term includes

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1 an offense under IC 35-43-5.

2 (b) This section applies to an offender who has been convicted
3 of a crime of deception.

4 (c) During or after the sentencing of a person convicted of a
5 crime of deception, the court may, upon motion by the state or
6 upon application by a victim or a victim's representative, issue an
7 order:

8 (1) describing the person whose credit history may be affected
9 by the offender's crime of deception, with sufficient
10 identifying information to assist another person in correcting
11 the credit history; and

12 (2) stating that the person described in subdivision (1) was the
13 victim of a crime of deception that may have affected the
14 person's credit history.

15 (d) The order described in subsection (c) may be used to correct
16 the credit history of any person described in the order.

17 SECTION 4. [EFFECTIVE JULY 1, 2003] IC 35-43-5-1 and
18 IC 35-43-5-3.5, both as amended by this act, apply only to crimes
19 committed after June 30, 2003.

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SENATE MOTION

Mr. President: I move that Senator Rogers be added as second author of Senate Bill 320.

CLARK

SENATE MOTION

Mr. President: I move that Senator Broden be added as coauthor of Senate Bill 320.

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COMMITTEE REPORT

Mr. President: The Senate Committee on Criminal, Civil and Public Policy, to which was referred Senate Bill No. 320, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 5, line 5, delete "shall," and insert "**may**,".

and when so amended that said bill do pass.

(Reference is to SB 320 as introduced.)

LONG, Chairperson

Committee Vote: Yeas 11, Nays 0.

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SENATE MOTION

Mr. President: I move that Senator Zakas be added as coauthor of Senate Bill 320.

CLARK

SENATE MOTION

Mr. President: I move that Senate Bill 320 be amended to read as follows:

Page 5, line 2, delete "the sentencing of".

Page 5, line 4, after "During" insert "**or after**".

(Reference is to SB 320 as printed February 14, 2003.)

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